1946. File No. B. Agri. Debtors/46

Legal Department

B BRANCH

Subject:— A Bill to amend the Bombay Agriculture Debtor's Relief Act, 1939

(Sec. 52, 53 of Bom. XXVIII of 39)

(Bom. Act II of 1940)

File No. B. Agri. Debtors/46

Gen. 104 e.

209-B

Office of the R.L.A.

It is necessary to amend sections 54 and 55 of the Bombay Agricultural Debtors Relief Act, 1939, in the manner shown in the accompanying draft.

2. Under section 51 of the Act the paying capacity of the debtor is to be deemed to be the aggregate amount consisting of (1) the value of the immoveable property and (2) the value of the moveable property of a debtor determined in the manner described therein. The Land Mortgage Banks have agreed to take over all the adjusted debts if the value of the immovable property is double the amount of such debts. The Land Mortgage Banks would not agree to take over debts if they are scaled down to 5/6th of the paying capacity of a debtor. The draft at page 101 ante has therefore been recast so as to carry out the proposal as agreed to in the conference.

Id/-
P.N.M.
14/4/45.
Remembrancer of Legal Affairs.

U.R.to R.D.No. 2916 dated the 14th April 1945.

MM
16/7-
1817

No. 23 of 1945.

CONFIDENTIAL.

ADVOCATE GENERAL'S CHAMBERS,
HIGH COURT,
Bombay, 30th June 1945.

U.R. to the Advocate General, Bombay, No, 232-Confl. dated the 19th May 1945.
Subject: Bombay Agricultural Debtors Relief Act.

OPINION.

I am in agreement with the opinion given by the Remembrnacer of Legal Affairs. The Act of 45 is on the Statute Book now, and Boards have presumably been constituted under it, and are functioning. Probably some have already determined some matters and there will be even more confusion if there is any attempt to interfere directly as pointed out by the R.L. A.

I agree that the Ordinance does not save the provisions of the amending Act, But I am in favour of retaining things as they are at present at least until the result of the appeal to the Privy Council is known leaving it to any particular person to challenge the validity of any specific provision of the amending Act.

Sd/- C.K.Daphtary,

ADVOCATE GENERAL.

MM

16/7-

Office of the R.L.A.

The draft Bill and Statement at pages 159-162 ante as slightly amended are in order.

2. The subject-matter of the Bill falls under entries 1, 2, 21,27 and 32 in List II and entries 8,10 and 15 in List III in the Seventh Schedule to the Government of India Act, 1935. The provisions in the Bill relating to the further scaling down of the debts and settlement thereof are generally repugnant to the Contract Act. It is therefore necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935, and paragraph (2) of the Proclamation. The Bill also requires the previous concurrence from the Governor General under Executive Instructions

Sd/- P.N.Moos
19.9.45

R.L.A.

U.R. to R.D.No. 6914 dt. 20th September 1945.

MM
16/7-

No. 467

Legal Department,
Bombay Castle , 18th January 1946.

From

P.N.Moos, Esquire, Bar-at-Law, I.C.S.,
Secretary to the Government of Bombay;

To

The Secretary to the Governor of Bombay.

Subject:- A Bill to amend the Bombay Agricultural Debtors Relief Act, 1939.

Sir,

With reference to your memorandum No.201(56), dated the 1st November 1945, addressed to the Revenue Department, on the above subject, I am directed to send herewith a copy of the Bill to amend the Bombay Agricultural Debtors Relief Act, 1939, prepared by His Excellency the Governor under paragraph (2) of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, and to request you to forward the same to the Secretary to the Governor General (Public) for obtaining the assent of His Excellency the Governor General.

2. The subject matter of the Bill falls under entries Nos. 1,2,21,27 and 32 of List II and entries Nos. 8,10 and 15 of List III in the Seventh Schedule to the Government of India Act, 1935. The provisions in the Bill

relating to the further scaling down of the debts and settlement/s thereof are generally repugnant to the Contract Act. It is therefore necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935, and paragraph (2) of the Proclamation.

3. I also forward herewith six copies of the Bill out of which five copies are for transmission to the Secretary to the Governor General (Public).

Your obedient servant,

M.K.D.
O.C.

for Secretary to the Government of Bombay,
Legal Department.

Through

The Secretary to the Government of Bombay,
Revenue Department.

MM
16/7-

No. G.S. 183.
Office of the Governor's Secretary,
Government House,
Bombay, 11th February 1946.

From
G.G.Brewe, Esquire, OBE., ICS.,
Secretary to the Governor of Bombay.

To
The Secretary to the Government ofBombay,
Legal Department.

Subject: The Bombay Agricultural Debtors Relief (Amendment) Bill, 1946.

Sir,

With reference to your letter No. 467 dated the 18th January 1946, on the subject mentioned above, I am directed to forward herewith the authentic copy of the Bombay Agricultural Debtors Relief (Amendment) Bill, 1946, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd/-

for Secretary to the Governor of Bombay.

Copy to the Revenue Department.

MM

16/7-

Acts

Publication of the Bombay Agricultural Debtors Relief (Amendment) Act, 1946.

GOVERNMENT OF BOMBAY.

Legal Department.

Resolution No. 1283

Bombay Castle, 14th February 1946.

Letter to the Secretary to the Governor, NO. 467, dated the 18th January 1946.

Letter from Secretary to the Governor NO.G.S. 183 dated the 11th February 1946.

"With reference to your letter No.467 dated the 18th January 1946, on the subject mentioned above, I am directed to forward herewith the authentic copy of the Bombay - Agricultural Debtors Relief (Amendment) Bill, 1946, with His Excellency the Governor-General's assent signified thereon."

RESOLUTION.- The law should be published as Bombay Act No.II of 1946, in the Bombay Government Gazette dated the 20th February 1946.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department.

By order of the Governor of Bombay,

N.K.DRAVID.

Deputy Secretary to Government.

Contd.

To

The Manager, Government Central Press, Bombay
(with a copy of the Act and with a request
that 15 Gazette copies of the Act may be
forwarded to the Legal Department).

The Revenue Department,
*The Oriental Translator to Government.) with a copy
The Secretary to the Bombay Legislative) of the Act.
Council.
The Secretary to the Bombay Legislative
Assembly.

*With five extra copies.

MM

16/7-

1571

Bombay Act No. II of 1946

~~GOVERNOR'S BILL No. V OF 1946.~~

An Act

~~A Bill~~ to amend the Bombay Agricultural Debtors Relief Act, 1939.

Bom. XXVIII of 1939.

WHEREAS it is expedient to amend the Bombay Agricultural Debtors Relief Act, 1939, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title.

1. This Act may be called the Bombay Agricultural Debtors Relief (Amendment) Act, 1946.

Amendment of section 54 of Bom. XXVIII of 1939.

Bom. XXVIII of 1939.

2. In sub-section (*1*) of section 54 of the Bombay Agricultural Debtors Relief Act, 1939, hereinafter called the said Act, after the word "shall", the words "save as otherwise provided in section 55", shall be inserted.

(and figures)

Amendment of section 55 of Bom. XXVIII of 1939.

3. In section 55 of the said Act for sub-sections (*1*) and (*2*) the following shall be substituted, namely:—

"(*1*) Where the total amount of the debt as scaled down by the Board under section 52 does not exceed half the value of the immoveable property of the debtor, and in any other case where all the creditors agree to the further scaling down of the debts under sub-section (*2*) after so scaling down the debts, the Board shall, unless the debtor himself pays the amount of debt as finally scaled down and produces the creditor's receipt therefor, make an award in the prescribed form directing that the Primary Land Mortgage Bank situated in the local area or if there is no such Primary Land Mortgage Bank in that local area, the Bombay Provincial Co-operative Land Mortgage Bank shall pay the creditors in cash the amount of debt as finally scaled down or, if the creditors so desire, issue to them bonds issued by the Bombay Provincial Co-operative Land Mortgage Bank, registered under the Bombay Co-operative Societies Act, 1925, such bonds being guaranteed by the Provincial Government, for such amount in full satisfaction of all the debts due to them from the debtor and shall be entitled to recover the amount from the debtor in accordance with the award. The Board shall further direct that such amount shall be charged on all the immoveable property of the debtor. The rate of interest payable by the debtor to the Bank in such case shall be the rate notified in this behalf by the Provincial Government from time to time subject to the maximum of six per cent. per annum.

Bom. VII of 1925

(2) Before making the award under sub-section (1) of section 54, the Board shall, where the amount of debts of the debtor as scaled down by it exceeds half the value of the debtor's immoveable property as determined by it, intimate to the creditors the amount of the said debts of the debtor and the said value of the debtor's immoveable property and call upon them to state in writing within a specified period whether they agree to the further scaling down of the said debts so as to reduce them to a sum not exceeding half the said value of the immoveable property of the debtor in order to secure the benefit of sub-section (1) above."

STATEMENT.

Under the provisions of the Bombay Agricultural Debtors Relief Act, 1939, the normal method of repayment of adjusted debts is by annual instalments fixed on the basis of the net annual income of the debtor. The special method of adjustment of debts through the Land Mortgage Banks and their repayment in bonds issued by the Bank as provided in section 55 of the Act, as it stands at present, does not appeal to the creditors as they have, in some cases, to agree to a further scaling down of the debt to a sum not exceeding half the value of the immoveable property of the debtor particularly as the bonds issued to them are not immediately redeemable.

2. Representations have been made to Government that the existing Land Mortgage Banks whose main business it is to supply long-term credit to the agriculturists should take over the awards in all cases where the total amount awarded is 50 per cent. or less of the value of the debtor's immoveable property and the creditors should be compelled to receive payment from these banks so that the adjusted debtor may be indebted to the Land Mortgage Banks for his long term credit and to the co-operative societies for his short term credit.

3. The Land Mortgage Banks have since agreed—

(i) to take over all awards where the total amount awarded is 50 per cent. or less of the value of the debtor's immoveable property as defined in the Act or where the creditors agree to scale down the debts of the debtor to a sum not exceeding half the value of the immoveable property of the debtor,

and

(ii) to pay, at the option of the creditor, either in cash or in bonds.

4. Under the provisions of sections 51 and 52 of the Act, the paying capacity of the debtor is taken at sixty per cent. of the value of his assets (both immoveable and moveable) and his debts are to be scaled down to such paying capacity. It is likely that creditors will, in case of debts which do not come under the scheme envisaged in paragraphs 2 and 3 above, agree to such further reduction as would reduce the debts to 50 per cent. (or less) of the value of the debtor's immoveable property, and accept the amount due in cash or in bonds and it is therefore proposed to give an option to the creditors to agree to such further scaling down of the debts as to bring them within the scheme of paragraphs 2 and 3 above.

5. The proposed amendments aim at achieving the objects outlined in paragraphs 2 to 4 above.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.